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Morison Trial to Test Press Freedom

Maryland Man Accused of Leaking Classified Photos to Magazine

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BALTIMORE, Oct. 7—When Congress was last revising the espionage laws in 1949, in the midst of a Cold War clamor for internal security, Sen. Patrick McCarran (D-Nev.) said he wanted to make sure that the new laws would not be used to harass the press.

Accordingly, he introduced an amendment, subsequently made part of the Internal Security Act of 1950, which stated:

"Nothing in this act shall be construed to authorize, require or establish military or civilian censorship or in any way to limit or infringe upon freedom of the press or of speech as guaranteed by the Constitution of the United States and no regulation shall be promulgated hereunder having that effect."

The trial of Samuel Loring Morison, which begins here Tuesday in U.S. District Court, could stand that amendment on its head, civil libertarians warn. Unlike most espionage cases, which charge that secret information was passed to an enemy of the United States, Morison is on trial for giving classified Navy photographs to a British magazine. The photographs were later distributed by the Associated Press; one was published in The Washington Post.

The prosecution contends that it is immaterial to proving espionage whether the recipient of the information was the Soviet Union or a news organization. In an early ruling, Judge Joseph H. Young agreed, saying "... [T]he danger to the United States is just as great when this information is released to the press as when it is released to an agent of a foreign government." The important points, the judge said, were that the documents were "closely held" and their

disclosure could be damaging to the country, or useful to a foreign power.

The case against Morison marks the first time someone has been accused of violating espionage laws by leaking classified information to the press since charges were brought against Daniel Ellsberg in the Pentagon Papers case. The government's case against Ellsberg was dismissed.

The Morison case "poses an extraordinary threat to the First Amendment," said Morton Halperin, Washington director for the American Civil Liberties Union. "It is not an exaggeration to say that the First Amendment as it applies to the right of reporters to report on the affairs of government is at stake."

Assistant U.S. Attorney Michael Schatzow dismisses such talk as "simplistic" and distorted.

He portrays Morison, 40, not as a defender of the First Amendment but as simply a discontented bureaucrat who swiped three classified photos from a colleague's desk and sent them off to a British publication called Jane's Defence Weekly in hopes of getting a full-time job with the organization. Morison, a Navy intelligence analyst until his arrest at Dulles International Airport last year, is the grandson of the famous naval historian Samuel Eliot Morison.

The photos in question, apparently taken by a KH-11 spy satellite, showed the Soviet Navy's first nuclear-powered aircraft carrier under construction at a Black Sea shipyard.

The Weekly, an offshoot of Jane's Publishing Co. and its authoritative military yearbooks, published the pictures in an August 1984 edition with a story indicating that work had been speeded up on the 75,000-ton flatop.

FBI and Navy counterintelligence agents began an investigation the day after one photo ran in the Post on Aug. 8, 1984. The trail, according to court records, soon led to Morison, a scholarly, somewhat eccentric bachelor who had been working since 1974 as a Soviet ship analyst at the Naval Intelligence Support Center (NISC) in Suitland, Md. Morison worked on the side as the American editor for Jane's Fighting Ships, a \$5,000-to-\$7,000-a-year job of which his superiors knew and approved.

Three satellite photos of the Soviet carrier, each stamped "secret" and carrying the notation "REL TO UK AND CANADA" (releasable to the United Kingdom and Canada), were missing from a desk top in the vaulted room where Morison worked. Investigators confiscated his typewriter ribbon and found that he had been corresponding with Jane's.

In one letter to Derek Wood, editor in chief of Jane's Defence Weekly, Morison, according to a government affidavit, thanked Wood for the remuneration for the "items" he had sent and said he had not expected anything. In another note, to Capt. John Moore, editor of Jane's Fighting Ships, Morison called NISC "a pit" and said, "I hope that you know ... my loyalty to Jane's is above question. I'd rather quit here than there."

Jane's Defence Weekly, evidently without objection, surrendered the photographs to British intelligence, which turned them over to U.S. officials. The "secret" markings had been cut off, but one of the photos turned out to have Morison's fingerprint on it.

Morison was arrested on Oct. 1, 1984, as he was about to depart for what friends say was a long-planned vacation in England. At first he was accused of espionage and theft

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Samuel Morison, left, with lawyer Robert Muse after recent court appearance in Baltimore.

of government property for taking the photos and mailing them to Jane's when he had "reason to believe [the photos] could be used to the injury of the United States and to the advantage of a foreign nation."

Then, two searches of Morison's Crofton apartment led to the seizure of several hundred documents and two additional criminal counts. In a later indictment, Morison, who has a top secret security clearance, was also accused of theft and unauthorized possession of two NISC "Weekly Wires" concerning a massive May 1984 explosion at Severomorsk, the main ammunition depot for the Soviet Union's Northern fleet. They were reportedly found in Morison's apartment in an envelope marked "Derek Wood," editor of Jane's Defence Weekly.

The new indictment dropped any mention of Morison's having "reason to believe" that disclosure could hurt the United States or help a foreign nation. What the prosecution needed to do, Young held, was show that Morison "willfully" or deliberately trans-

mitted photos and documents "relating to the national defense" to someone "not entitled" to receive them under the government's classification rules.

Morison's lawyers, Robert H. Muse of Washington and Mark H. Lynch of the American Civil Liberties Union, have protested that the sections of espionage law used in this case were meant to apply only in the classic espionage setting, to spies and saboteurs. As for the theft charges, they contend that making the law applicable to government "information" would give the executive branch unbridled discretion to control what the public may be told.

In short, Halperin said, if the government's theory prevails, officials who give reporters information that the government is trying to keep secret are guilty of a crime. And "although no reporters have been indicted in this case," he added, "it is clearly a crime" for the reporter to keep the information or give it to somebody else.